

Memorandum

To: Board Members

Date: January 11, 2004

From: Organizational Development Committee

Subject: Action Items and Report on the Meeting of January 9, 2004

The Organizational Development Committee met on January 9, 2004, in a teleconference meeting. Minutes of this meeting are provided in this tab section as Attachment A (following the numbered attachments referenced below).

Action Items

Item 1:

Annual Update of the Board's Strategic Plan

Recommendation: The board should perform its annual update of its strategic plan this year by directing each committee to review its plan during the next quarterly meeting and bringing any changes to the April 2004 Board Meeting for discussion, modification and adoption into the strategic plan for 2004.

Discussion:

Each year the board reviews and updates its strategic plan. This revision typically occurs during the April Board Meeting during the annual public meeting of the Organizational Development Committee.

Last year, a major revision of the strategic plan was undertaken that substantially restructured the plan. Lindle Hatton, PhD, led the board in this process. At the time of the revision (which actually was initiated in 2002 and completed in 2003), the board's intent was to make minor updating changes to the strategic plan in 2004 and undertake a major revision in 2005. This is consistent with the direction provided by Dr. Hatton that generally strategic plans should endure for more than one year in their scope and vision, and should be focused on three to five years.

The committee recommends that only a modification to the plan is needed this year. Each committee will be asked to review the committee's plan at the next quarterly committee meeting. The committee will then recommend changes to the plan that will be discussed at the April board meeting.

Item 2:

Proposed Technical Amendments to Clarify Renewal of a Permit and Scholarship Donations

Recommendation: Add proposed amendments to sections 4409 (regarding scholarship donations and 4403 (regarding payment of fees for reissuance and renewals of permits) to the annual omnibus legislation.

Background:

Several years ago, a California Pharmacist Scholarship and Loan Repayment Program was established whereby pharmacists and pharmacies could donate funding for scholarships for pharmacy students. This donation would be made at the time a pharmacist or pharmacy renews his/her/its license. The amount of this donation was established as \$25 in the statute, and in establishing cashing parameters, the department concluded that contributions over \$25 could not be accepted and the full amount of the donation would need to be returned.

To permit pharmacists and pharmacies to donate more than \$25, the statute needs to be amended. Proposed wording to do this is:

4409. At the time a pharmacy license is renewed pursuant to subdivision (a) of Section 4410 or a pharmacist license is renewed pursuant to Section 4401, the pharmacy or pharmacist may make a ~~twenty-five dollar (\$25)~~ contribution; of at least twenty-five dollars (\$25) to be submitted to the board, for the sole purpose of funding the California Pharmacist Scholarship and Loan Repayment Program established pursuant to Article 5 (commencing with Section 128050) of Chapter 2 of Part 3 of Division 107 of the Health and Safety Code. The contribution submitted pursuant to this section shall be paid into the State Treasury and credited to the California Pharmacist Scholarship and Loan Repayment Program Fund established pursuant to Section 128051 of the Health and Safety Code.

Additionally, a technical amendment is needed to section 4403 to conform the language to current usage. The board generally "renews" rather than "reissues" licenses. The proposed amendment is:

4403. The board shall not reissue or renew any license without the payment of the fees required by this chapter and the payment of all fees that are delinquent at the time that the application is made.

Information Only

Item 3:

NABP Staff Recommendation that the Board Become a Full Member of NABP

Staff of the National Association of Boards of Pharmacy have recommended that the board become a full member of the NABP because California is now using the NAPLEX to assess minimum competency in pharmacists as a condition for licensure, and accepting score transfers of NAPLEX exams for candidates who have taken the NAPLEX after January 1, 2004.

Full membership in NABP would allow the board to vote in matters before the NABP, a right the board does not currently have as an associate member. This would provide the board with a greater role in the development of national policies regarding pharmacists' care.

This determination will be made by the vote of the NABP executive staff in the near future.

The Annual Meeting of the NABP is set for April 24 –28 in Chicago. The committee recommends that as many board members who can afford to go on their own should go. Current budget restrictions will make it nearly impossible for the board to receive funding for any board member or the executive officer to attend. This national meeting will allow the board to participate in evolving national policy of state boards of pharmacy on such key areas as importation of drugs and the regulation of wholesalers.

Item 4:

Budget Update for 2003/04

The state continues to face a huge budget deficit this year and projections continue to forecast deficits for the future. The Davis Administration issued several cost containment requirements that have impacted the board's budget this year. Since July 1, 2003 (the beginning of this fiscal year), the board has:

- Lost six positions vacant on June 30, 2003

- Identified a 12 percent (or \$422,518) cut in Personnel Services. Most of this was linked to the loss of the six positions; additionally \$12,000 in board member compensation was lost as was all overtime and \$9,000 from operating expenses. No staff at the board was laid off to meet the 12 percent reduction.
- Been advised that it cannot purchase three vehicles to replace existing vehicles assigned to inspectors (these vehicles were scheduled for replacement last year).

As discussed below in Item 6, the Governor has issued two executive orders regarding the budget – one extends the hiring freeze through June 2004, the other directs agencies not to contract for goods or services or to undertake unnecessary travel.

Revenue for 2003/04

The board's projected revenue for the year is \$5,640,544. This is comprised of \$5,420,423 in fee revenue and \$220,121 in interest. See Table 1 in Attachment 1.

Actual fee revenue is likely to be approximately 10 percent higher than the \$5.4 million, but interest revenue will be substantially less (this figure is calculated by the Department of Finance, and is \$100,000 more than last year's actual interest income, which was collected on a larger balance in our fund).

Not included in the projections is revenue from citations, which as of early December was \$470,000.

Expenditures for 2003/04

The most recent estimates prepared by the Department of Consumer Affairs (December 2003) now sets our maximum expenditures for the year at \$7,000,486. This figure includes the 12 percent reduction in personnel expenditures.

Budget Detail:

- Personnel is still the largest component in the budget, comprising 49 percent of board expenditures.
- Enforcement expenses (excluding enforcement staff salaries) are 14.9 percent.
- Pro rata charges for DCA and the state are 13.7 percent of our budget (by comparison, in 1998/99 pro rata was 11.2 percent of our budget).
- Travel is budgeted for \$167,011 (2.4 percent), which is nearly equal to last year's actual travel expenses of \$165,294, but nearly \$20,000 less than the board spent for travel in 2001/02. (In fact, travel has been steadily decreasing since 1998/99, when it was \$228,235.)

Board Member Expenditures and Reimbursements

Attachment 2 lists the expenses of board members that have been received this fiscal year.

Update: Board Fund Condition

Last year the board loaned \$6 million from its fund (the board's "savings account") to the state's General Fund. Repayment of this loan is required if the board will enter a deficit situation.

This year, the board is expected to spend at least \$1.3 million more than it projects it will collect in revenue. As such, the amount of money in reserve in the board's fund is important.

Current projections are that we will not have a deficit in our fund until early in 2005/06. See Table 1 (Attachment 1).

Budget Change Augmentations for 2003/04 and 2004/05

The board must prepare a "budget change proposal" to increase its budget for resources and staff. The board is not seeking any augmentations for 2003/04 or 2004/05 due to the state's budget crisis.

The board will have to continue to provide services to a growing licensee population with existing staff and existing resources. However, workload priorities will continue to result in changes in how the board performs duties. For example, the board has changed its telephone system to provide callers with more automated answers to their questions, and restrict the immediate access of callers to the board's receptionists. Additionally, all staff is being assigned to answer the phones for four hours at least once per month as a means to respond to the calls that we do receive in light of staffing reductions.

Item 5:

Status Update on the Joint Legislative Sunset Review and Performance Audit by the Department of Consumer Affairs Internal Audits Office

Background: A number of recommendations for the board or board operations were made as part of the board's sunset review process during 2002/03. The Joint Legislative Sunset Review Committee (JLSRC) and Department of Consumer Affairs issued a number of joint recommendations, and then each made several additional recommendations for the board. The Organizational Development Committee has been tracking these recommendations, and the board has initiated work on each of them.

Several of the initiated recommendations deal with public education and outreach, and work is now underway on these items. Another recommendation, making all committee meetings of the board public, will be partially implemented. All committee

meetings of the Enforcement, Licensing and Communication and Public Education Committees will be public. At least two meetings of the Legislative and Regulation Committee will be public meetings. At this time, plans are that only one meeting each year of Organizational Development Committee will be noticed as a public meeting.

DCA's Internal Audits Office – Assessment of the Board's 180-Day Post Audit Status Report

Additionally as part of the sunset review, the department's Internal Audit Office reviewed the board's operations from October 2002 to February 2003. The audit looked at the board's internal controls, compliance with all state requirements, the licensing of pharmacists and technicians, enforcement matters and cashiering. (The department typically audits every agency undergoing sunset review.)

The Organizational Development Committee also has been tracking these recommendations to review board progress. In October 2003, the committee provided a copy of the board's status report 180 days after the audit. Progress reports to the department on the board's actions to incorporate the recommendations are required at six months and 12 months.

Since the October Board Meeting, the Internal Audits Office has assessed the board's progress by auditing our 180-day status report. In early December the office issued its assessment. A copy of this report is attached as Attachment 3. Of the four initial findings, the auditors indicate that the board has:

1. Ongoing assessment and evaluation of its fund condition is in place to prevent a deficit in the fund.
2. Partially completed inventory controls for destroying outdated evidence and posting signs regarding the board's evidence storage.
3. Tracking systems in place for monitoring processing of applications, but the board would benefit if a single, integrated tracking system existed for all of its 12 programs (the board is relying on the department to provide such a system).
4. Fully implemented changes to the automated complaint tracking system.

The auditors also stated their intent to audit all our activities when assessing our 360-day progress report.

Item 6:

Transition to the New Administration

The Schwarzenegger Administration began November 17, 2003. A few new appointments have made thus far changing key administrators – Medical Board Executive Director Ron Joseph has been appointed interim director, replacing Kathi Hamilton. Former legislator Fred Aguiar began work as Secretary of the State and

Consumer Services Agency on January 5. A new press officer has been appointed to replace former Deputy Director Mike Luery, who left state service.

Several executive orders have been issued dealing with budget matters and regulations.

1. Executive Order S-2-03 – Regulations

This executive order suspends all pending rulemaking proceedings for six months. The order requires a list of all regulations adopted during the Davis Administration, and a list of any “underground” regulations.

The board’s Legislation and Regulation Committee will discuss this executive order more fully during its report at this meeting.

2. Executive Order S-3-03 -- Hiring Freeze

The Governor continued the hiring freeze established by Governor Davis in 2001. In the case of the board, this means that the board could not fill vacancies by hiring anyone who is not already a board employee, nor could the board promote staff into any vacant position at the board without a freeze exemption issued by the Department of Finance. Currently the board has no vacancies, should one occur, the board could not fill the position unless a freeze exemption was issued, and then the board would have to hire employees on the state layoff list. All positions vacant for six months are eliminated. The order will expire in June 2004.

3. Executive Order S-4-03 – Contracts and Nonessential Travel

This executive order prohibits state agencies from contracting for goods and services without an exemption unless the contract is for legal services or expert testimony in pending litigation. The Department of Consumer Affairs recently secured an exemption for special fund agencies in the department from this order – agencies such as the board. As such the board can continue to enter into contracts, which is fortunate because without an exemption, the board would not have been able to obtain signed contracts to administer the NAPLEX or CA jurisprudence examination.

However, the board still must make certain it does not undertake unnecessary or nonessential travel. Currently the only definition provided for this is travel to conferences, training or seminars.

Item 7:

Loss of PLEMS

The Department of Finance suspended financing to continue work on implementing the department's proposed Professional Licensing and Enforcement Management System, a new computer system to replace the CAS system, which had been created in the early 1980s. The Department of Finance was not convinced that the proposed project was an essential information technology activity and had issues that will require the Department of Consumer Affairs to conduct additional research. The department has consequently suspended work on this new system, so the project is at least inactive, if not dead.

Computer systems that provide licensing and enforcement data are essential. The board has requested that the department redirect staff from the PLEMS project to the programming unit of CAS to allow the existing system to be modified.

Item 8:

Personnel Update

As discussed earlier, all vacant positions on June 30th were eliminated. The board lost six positions, but currently has no vacancies. Attachment 4 provides the Personnel Update.

Issue 9:

Mandatory Ethics Training for Board Members and Designated Staff Must Be Completed in 2003

All board members and designated staff completed the state-mandated ethics training as required before January 1, 2004.

Attachment 1

*Board Revenue, Expenditures, Fund
Condition for 2003/04*

Table 1
BOARD OF PHARMACY
Analysis of Fund Condition

FUND 0767

	FINAL 2002-03	2003-04	2004-05	2005-06	2006-07
BEGINNING RESERVE, JULY 1	10,810,963	4,402,422	2,668,965	627,746	(1,665,964)
Prior Year Adjustment	116,669				
TOTAL ADJUSTED RESERVES	10,927,633	4,402,422	2,668,965	627,746	(1,665,964)
REVENUE					
License Fees	5,915,391	5,420,423	5,346,813	5,346,813	5,346,813
Interest	131,981	220,121	133,448	31,387	0
TOTAL REVENUE	6,047,373	5,640,544	5,480,261	5,378,200	5,346,813
BUDGET ACT TRANSFERS:					
91/92 General Fund Return					
02/03 6 mil GL loan	(6,000,000)				
TOTAL TRANSFERS	(6,000,000)	0	0	0	0
TOTAL REV. AND TRANSFERS	47,373	5,640,544	5,480,261	5,378,200	5,346,813
TOTAL RESOURCES	10,975,005	10,042,965	8,149,226	6,005,946	3,680,849
EXPENDITURES					
Budget expenditures	6,899,281	7,374,000	7,521,480	7,671,910	7,825,348
Reimbursement	(326,828)				
SCO charge	130				
TOTAL EXPENDITURES	6,572,583	7,374,000	7,521,480	7,671,910	7,825,348
RESERVE, JUNE 30	4,402,422	2,668,965	627,746	(1,665,964)	(4,144,499)
MONTHS IN RESERVE	7.2	4.3	1.0	(2.6)	(6.4)

NOTES:

1. INTEREST EARNED AT: 5%
2. BUDGET INCREASE BY: 2%
3. WORKLOAD AND REVENUE PROJECTION PROVIDED BY BOARD
4. FY 03-04 EXPENDITURE TIES TO BUDGET ACT 03-04
5. FY 02-03 TIES TO SCO YEAR END REPORT

Attachment 2

Board Member Hours and Travel Expenses

Chart 1

Board Member	Hours		Travel	
	Bd Meeting	Other	Expense	Airfare
James E. Acevedo	16	0.0	\$0.00	\$564.50
Richard L. Benson	16	0.2	\$117.36	\$186.00
Ruth M. Conroy	16	0.0	\$0.00	\$447.50
David J. Fong	32	21.1	\$404.23	\$0.00
Stanley Goldenberg	32	54.0	\$699.66	\$836.50
Clarence Hiura	32	21.6	\$715.25	\$563.00
John D. Jones	32	48.2	\$2,563.62	\$1,546.50
William Powers	16	15.9	\$177.75	\$368.00
Kenneth H. Schell	16	0.0	\$404.39	\$563.00
John Tilley	32	9.2	\$0.00	\$345.50
Andrea Zinder	16	4.1	\$19.00	\$185.50
Don Gubbins	16	7.7	\$174.55	\$184.00

Board member expenses from July 1, 2004 to December 31, 2003.

Attachment 3

*DCA's Internal Audits Office Assessment
of the Board's 180-Day Status Report*



CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
INTERNAL AUDIT OFFICE
400 R STREET, SUITE 3040
SACRAMENTO, CA 95814-6200
(916) 322-6340, (916) 327-0433 (fax)



December 3, 2003

Denise Brown, Chief Deputy Director
Department of Consumer Affairs
400 R Street, Suite 3000
Sacramento, CA 95814

Subject: 180-day Follow-up for Board of Pharmacy (Audit No. 2002-103)

Dear Ms. Brown:

As part of the audit process, the Internal Audit Office completed a 180-day follow-up to our operational audit of the California Board of Pharmacy (Board) dated March 17, 2003. The purpose of the follow-up was to determine the status of the Board's corrective actions relating to the audit findings contained in our report. In conducting the follow-up, we interviewed appropriate staff, reviewed selected documentation and performed an on-site inspection of the Board's Sacramento office. All corrective actions noted in this letter were based on responses received by our office as of November 26, 2003. We concluded the Board has made progress in implementing many of its corrective actions, but has been unable to fully implement all of them. The specific results of our review are detailed below.

Finding 1 – The loan of \$6 million from the Pharmacy Board Contingency Fund to the State's General Fund will negatively impact the Board's future operations if not repaid in a timely manner.

In our audit report, we noted the enactment of the 2002-03 Budget Act required the Board to loan \$6 million from its Contingency Fund (Fund) to the state's General Fund. The Board had projected future expenditures would exceed future revenues, resulting in a depleted Fund in fiscal year (FY) 2003-04. We recommended the Board work with the Department of Finance (DOF) to obtain repayment on the loan in a timely manner.

Board's Corrective Actions: On-going

According to its 180-day response, dated October 6, 2003, the Board has continuously monitored the Fund's condition. The Board stated the Fund balance was higher at the end of FY 2002-03 than originally projected because of cost savings and increased revenues. In April 2003, the department, on behalf of the Board, met with the DOF to establish a loan payment schedule for FY 2003-04. The DOF determined the repayment was not needed during this timeframe and agreed to reevaluate the situation at a later date. The Board provided revised projections, which estimates a deficit in the Fund during FY 2005-06.

We verified the DOF's decision and Fund balance information with the department's Budget Office. The Budget Office provided us with its Analysis of Fund Condition, which also estimates a depleted Fund reserve in FY 2005-06. Given this information, we concluded the Board is closely monitoring its Fund condition and working with the DOF to determine when repayment of the loan is in the best interest to both the State and the Board.

Finding 2 – Although the Board's evidence room access controls are adequate, management could strengthen inventory controls and safety awareness.

During our audit, we found the Board had a significant amount of evidence earmarked for destruction being stored in its evidence rooms. We noted the Board was unaware of the composition of its pharmaceutical inventory and that it did not provide an advisement on the potential hazards of the contents, particularly in the event of a fire or flood. We recommended the Board implement a process to identify and inventory its evidence and a warning sign be posted on the entrance to the evidence room. Additionally, we recommended the Board take steps to properly dispose of the evidence no longer needed.

Board's Corrective Actions: Partially Implemented

In its 180-day response, the Board reported the Sacramento office evidence was inventoried and a similar process would be completed for the Los Angeles office by the time of the 360-day audit follow-up. The Board indicated it was making arrangements to secure a contractor to destroy the evidence associated with closed cases and that a warning sign was now posted at the entrance of both evidence rooms specifying the contents may contain biohazardous materials.

We verified that an inventory of the Sacramento office's evidence was completed, and staff informed us they were commencing the inventorying process for the Los Angeles office. We also confirmed the Board has been in contact with a contractor to destroy evidence in the Sacramento and Los Angeles offices. We visited the Sacramento office evidence room and noted the warning sign posted on the entrance door identifying the room as a pharmaceutical storage area containing chemicals that may cause "cancer, reproductive toxicity, birth defects or other reproductive harm." Staff relayed the difficulty it experienced in categorizing carcinogenic and/or toxic evidence since the reference guide for identifying such substances lists chemical names and the pharmaceuticals in the evidence rooms were identified by prescription name. Consequently, the Board decided to identify all evidence as potentially hazardous.

The Board's actions have addressed our recommendations and with its plan to complete the inventory and destruction process, it should be able to fully implement its corrective actions by the 360-day follow-up date.

Finding 3 – The Board's licensing activities are adequate but could benefit from improvements.

Our audit report cited problems with the Board issuing receipt letters or deficiency notices to its license applicants in a timely manner. Additionally, we noted the Board relied on several systems to monitor its licensing operations with some lacking the ability to establish accurate application-processing times. We recommended the Board handle application receipt letters and deficiency notices as mandated, and suggested it implement a comprehensive tracking system to enable it to adequately monitor application/licensing activities.

Board's Corrective Actions: Partially Implemented

The Board's 180-day response pointed out that staff cuts have prevented it from redirecting personnel to assist with the application receipt letters and deficiency notices. The response also stated the Board implemented procedural changes and pursued legislation, which was chaptered and goes into effect January 1, 2004, to streamline the licensing process for pharmacy technicians. Lastly, the Board indicated it was awaiting the department's proposed licensing database, Professional Licensing and Enforcement Management System (PLEMS) to automate and integrate its licensing activities. In the meantime, it was expanding its use of MS Access software to develop programs to monitor application/license activities.

We confirmed the Board lost seven employees, approximately 13 percent of its staff, during recent DOF personnel reduction drills. We learned the Board requested the department's Office of Information Services (OIS) to modify CAS to automate pharmacist license renewals but the OIS considered the request an enhancement, which are not being considered at this time. We reviewed the chaptered legislation and noted the language clarifies licensing requirements for pharmacist technicians. We reviewed proposed computer "screens" developed in Access to monitor "Exemptees" and were informed the program should be up and running by December 31, 2003. During the course of our follow-up, we became aware that PLEMS was suspended by the DOF.

The Board has not been able to implement all of its corrective actions given the constraints of staffing reductions and the unexpected suspension of the PLEMS project. During our planned 360-day follow-up, we will evaluate the impact of these limitations on the Board's licensing operations.

Finding 4 – The Board's enforcement program allows it to address consumer complaints, but continued improvements are needed to strengthen its operations.

During our audit we found delays in opening complaint files were resulting in the Board not consistently acknowledging complaints received within ten days, as required by law. Additionally, we noted the Board needed to improve its investigation times for cases, particularly those referred to the Attorney General. Lastly, our audit revealed that Board staff was inaccurately using the CAS data entry date as the case open date instead of the actual date the complaint was received. We recommended the Board continue its efforts to reduce complaint processing times, provide acknowledgement notifications to complainants within ten days, and ensure accurate dates are entered into CAS.

Board's Corrective Actions: Fully Implemented

In its 180-day response, the Board stated two vacant supervising investigators positions were filled and regulations were adopted authorizing the executive officer to issue citations and fines instead of a committee of board members. Additionally, the 180-day response reiterated the two changes it implemented at the time the audit report was issued relating to the complaint intake process. First, staff was trained on manually inputting the actual date a complaint was received into CAS. Second, staff was instructed to immediately separate complaint letters upon receipt to help ensure the 10-day complaint acknowledgment requirement is satisfied. The Board believes these corrective actions will allow timely acknowledgements and reduce case closing times.

We determined the Board fully implemented its corrective actions. We confirmed the hire of the two supervising investigators and the adoption of the new regulations. Also, we determined the corrective actions relating to CAS and the 10-day acknowledgment requirement were implemented. However, we did not conduct compliance testing to determine whether these corrective actions improved the timely completion of investigations. During our 360-day follow-up, we plan to perform testing to determine the impact the corrective actions have achieved.

We would like to thank the Board and its staff for their assistance during our follow-up. If you have any questions or need additional information, please call me at 327-6443.

Sincerely,



Steve Castillo
Audit Chief

cc: Patricia Harris, Executive Officer, Board of Pharmacy ✓
Kristy Wiese, Deputy Director, Legislative & Regulatory Review

Attachment 4

Personnel Update

Memorandum

To: Board Members

Date: January 11, 2004

From: Organizational Development Committee

Subject: Personnel Update

This fiscal year, the board had to take a 12 percent reduction in our personnel services budget. The majority of this cut came via the mandatory elimination of all positions vacant on June 30, 2003. In the case of the board, this was six positions. The positions we lost were:

- Three inspectors
 - one new position established for the compounding program
 - one inspector position vacated from the promotion of Dennis Ming to a supervising inspector,
 - one "technical" position that was reclassified from an analyst position to an inspector position to allow for reclassifying one the new supervising inspectors – which when we filled the supervising inspector position, left an inspector position vacant.
- One associate analyst (licensing of sites, created by the retirement of Sandi Moeckly at the beginning of 2003)
- One office technician (licensing of sites, created by the promotion of Suelynn Yee for licensing compounding pharmacies)
- One office technician (receptionist)

The board has no staff vacancies. The board does have two public board member positions vacant; these positions were created January 1, 2004, and are Governor appointments.

The board has three staff on parental leave (Inspectors Rosie Yongvanich and Cindy Drogichen-Rich and Manager Anne Sodergren).

Also effective January 1, 2004, the assistant executive officer's salary was reduced approximately 15 percent to a pre-2002 level (below that of inspectors and supervising inspectors) following a reclassification of her position that was denied by the State Personnel Board late last year.

Attachment A

*Minutes of the Organizational
Development Committee*

January 9, 2004



California State Board of Pharmacy

400 R Street, Suite 4070, Sacramento, CA 95814

Phone (916) 445-5014

Fax (916) 327-6308

www.pharmacy.ca.gov

STATE AND CONSUMERS AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

ORGANIZATIONAL DEVELOPMENT COMMITTEE

January 9, 2004

Meeting Minutes

**Board of Pharmacy
400 R Street, Suite 4070
Sacramento, CA 95814**

Via Teleconference with Committee Members

**Present: John Tilley, President
 Stan Goldenberg, Member
 Patricia Harris, Executive Officer
 Virginia Herold, Assistant Executive Officer**

Call to Order

Chairperson Tilley called the meeting to order at 9:15.

Status of Pending Legal Issues

Ms. Harris updated the committee on pending legal issues involving the board.

Transition from the Davis to Schwarzenegger Administrations

The Schwarzenegger Administration began November 17, 2003. Ms. Herold updated the committee on the few new appointments made thus far changing key administrators – Medical Board Executive Director Ron Joseph has been appointed interim director, replacing Kathi Hamilton. Former legislator Fred Aguiar began work as Secretary of the State and Consumer Services Agency on January 5. A new press officer has been appointed to replace former Deputy Director Mike Luery, who left state service.

Several executive orders have been issued dealing with budget matters and regulations. The committee discussed these executive orders and their impact on the board.

1. Executive Order S-2-03 – Regulations

Ms. Herold stated that this executive order suspends all pending rulemaking proceedings for six months. In the case of the board, the only pending rulemaking

is for sterile compounding pharmacies, which must be filed in February – one year from the date of the initial notice. The board is seeking an exemption for this important public health regulation, which if denied, would require the board to restart the whole adoption process, including re-noticing the regulation for 45 days.

The executive order also requires a report and assessment of all regulations adopted during the Davis administration. Ms. Herold stated that this report has been submitted to the board's Legislation and Regulation Committee, and the board will see it at the January Board Meeting.

Finally the executive order requires all agencies to identify any “underground” regulations. As directed, the board performed a thorough review of all procedures, applications, guidelines and processes to assure there were no such requirements. The board reported that it had no underground regulations; however, the board will rewrite its compliance policy guides to assure they cannot be considered underground regulations but only interpret laws.

2. Executive Order S-3-03 -- Hiring Freeze

The Governor continued the hiring freeze established by Governor Davis in 2001. In the case of the board, this means that the board could not fill vacancies by hiring anyone who is not already a board employee, nor could the board promote staff into any vacant position at the board without a freeze exemption issued by the Department of Finance. Although currently the board has no vacancies, should one occur, the board could not fill the position unless a freeze exemption was issued, and then the board would have to hire employees on the state layoff list. The order will expire in June 2004.

3. Executive Order S-4-03 – Contracts and Nonessential Travel

This executive order prohibits state agencies from contracting for goods and services without an exemption unless the contract is for legal services or expert testimony in pending litigation. The Department of Consumer Affairs recently secured an exemption for special fund agencies in the department from this order – agencies such as the board. As such the board can continue to enter into contracts, which is fortunate because without an exemption, the board would not have been able to obtain signed contracts to administer the NAPLEX or CA jurisprudence examination.

However, the board still must make certain it does not undertake unnecessary or nonessential travel. Currently the only definition provided for this is travel to conferences, training or seminars.

Loss of PLEMS

Ms. Herold stated that the board has been notified that the Department of Finance suspended financing to continue work on implementing the department's proposed Professional Licensing and Enforcement Management System, a new computer system to replace the CAS system, which had been created in the early 1980s. The Department of Finance was not convinced that the proposed project was an essential information technology activity and had "issues" that will require the Department of Consumer Affairs to conduct additional research. The department has consequently suspended work on this new system, so the project is at least inactive, if not dead.

The board has requested that the department redirect staff from the PLEMS project to the programming unit of CAS to allow the existing system to be modified.

Plans to Update the Board's Strategic Plan

Ms. Herold noted that the committee needs to recommend action regarding the annual update and review of the board's strategic plan. The board approved its strategic plan for 2003-2005 at the July board meeting following a work session undertaken at the April 2003 Board Meeting.

Typically, the board updates its strategic plan during the April board meeting in the annual public meeting of the Organizational Development Committee.

Last year, a major revision was undertaken that substantially restructured the plan. The board was led in this process by Lindle Hatton, PhD. At the time of the revision (which actually was initiated in 2002 and completed in 2003), the board's intent was to make minor updating changes to the strategic plan in 2004 and undertake a major revision in 2005. This is consistent with the direction provided by Dr. Hatton that generally strategic plans should endure for more than one year in their scope and vision, and should be focused on three to five years.

The committee determined that only a modification to the plan was needed this year. Each committee will be asked to review the committee's plan at the next quarterly committee meeting. The committee will then recommend changes to the plan that will be discussed at the April board meeting.

Motion: by John Tilley, seconded by Stan Goldenberg: Recommend that the board should perform its annual update of its strategic plan this year by directing each committee to review its plan during the next quarterly meeting and bringing any changes to the April 2004 board meeting for discussion, modification and adoption into the strategic plan for 2004.

Vote: 2-0

Status Update on Recommendations from the Board's Sunset Review

The committee reviewed the board's progress in implementing recommendations arising from the board's sunset review. Several items have been initiated but not fully completed. These items are described below.

1. The board should expand its consumer outreach and education, and work with the department to develop additional materials.
 - ✓ *Staff has met with the department's Communications and Education Division and a plan to mutually produce materials developed for the board's Communication and Public Education Committee. The board reviewed this plan at its July 2003 meeting. The committee is considering a new proposal to for pharmacy students to develop consumer fact sheets. If implemented, this will enable the board to produce additional fact sheets, a major goal of the plan.*
2. The board should establish a reliable method of communicating and surveying those who have filed complaints, and revise its survey instrument to provide meaningful data.
 - ✓ *The board actually has substantial information from consumers and has sent over 2,000 complainants a survey form over the last few years. (The department misunderstood the board's Sunset Report.) At the department's insistence, telephone surveys of consumers, which were to begin in July 2003, will be done on a limited basis, instead written surveys will continue. At the December 2003 Enforcement Team meeting, additional changes to the survey method were initiated.*
3. The board should work with the department's Office of Privacy Protection on ensuring patient privacy.
 - ✓ *The board has contacted the director of the Office of Privacy Protection to discuss development of a brochure regarding the privacy of patients' records. The board promulgated a regulation to permit it to cite and fine pharmacies and pharmacists for up to \$250,000 for failure to maintain the privacy of these records.*

Additionally as part of the sunset review, the department's Internal Audit Office reviewed the board's operations from October 2002 to February 2003. The audit looked at the board's internal controls, compliance with all state requirements, the licensing of pharmacists and technicians, enforcement matters and cashiering. (The department typically audits every agency undergoing sunset review.)

The Organizational Development Committee has been tracking these recommendations to review board progress. In October 2003, the committee provided a copy of the board's status report 180 days after the audit. This report contains the auditors' recommendations and the board's activities to achieve them. Progress reports to the department on the board's actions to incorporate changes are required at six months and 12 months.

Since the October Board Meeting, the Internal Audits Office indicated it wished to audit all our activities described in our status report, including such items as what specific legislative proposals the board has pursued to have its processes become more efficient. After discussion with senior board staff, the auditors agreed to a less expansive audit and to focus on only the initial audit findings of their office. A copy of their final report on our 180 day status report was provided to the committee.

Ms. Herold stated that the board's final status report is due in March 2004, at which time the auditors have stated that they will again audit the board for its technician application processing and complaint handling times, as well as any other items they believe may be necessary -- essentially another audit of the board.

NABP Staff Recommendation that the Board Become a Full Member of NABP

The committee discussed a letter from the staff of the National Association of Boards of Pharmacy. In this letter the staff recommends that the board become a full member of the NABP because California is now using the NAPLEX to assess minimum competency in pharmacists as a condition for licensure, and accepting score transfers of NAPLEX exams for candidates who have taken the NAPLEX after January 1, 2004.

Full membership in NABP would allow the board to vote in matters before the NABP, a right the board does not currently have as an associate member. This would provide the board with a greater role in the development of national policies regarding pharmacists' care.

Ms. Harris said that this determination would be made by the vote of the NABP executive staff in the near future.

The Annual Meeting of the NABP is set for April 24 –28 in Chicago. The committee recommends that as many board members who can afford to go on their own should go. Current budget restrictions will make it nearly impossible for the board to receive funding for any board member or the executive officer to attend. This national meeting will allow the board to participate in evolving national policy of state boards of pharmacy on such key areas as importation of drugs and the regulation of wholesalers.

Budget Update Report

The committee initiated its quarterly review of the board's budget and economic condition.

The state continues to face a huge budget deficit this year and projections continue to forecast deficits for the future. The Davis Administration issued several cost containment requirements that have impacted the board's budget this year. Since July 1, 2003 (the beginning of this fiscal year), the board has:

- Lost six positions vacant on June 30, 2003
- Identified a 12 percent (or \$422,518) cut in Personnel Services. Most of this was

linked to the loss of the six positions; additionally \$12,000 in board member compensation was lost as was all overtime and \$9,000 from operating expenses. No staff at the board were laid off to meet the 12 percent reduction.

- Been advised that it cannot purchase three vehicles to replace existing vehicles assigned to inspectors (these vehicles were scheduled for replacement last year).

Revenue for 2003/04

The board's projected revenue for the year is \$5,640,544. This is comprised of \$5,420,423 in fee revenue and \$220,121 in interest.

Actual fee revenue is likely to be approximately 10 percent higher than the \$5.4 million, but interest revenue will be substantially less (this figure is calculated by the Department of Finance, and is \$100,000 more than last year's actual interest income, which was collected on a larger balance in our fund).

Not included in the projections is revenue from citations, which as of early December was \$470,000.

Expenditures for 2003/04

The most recent estimates prepared by the Department of Consumer Affairs (December 2003) now sets our maximum expenditures for the year at \$7,000,486. This figure includes the 12 percent reduction in personnel expenditures.

Ms Herold noted that:

- Personnel is still the largest component in the budget, comprising 49 percent of our expenditures.
- Enforcement expenses (excluding enforcement staff salaries) are 14.9 percent. Pro rata charges for DCA and the state are 13.7 percent of our budget (by comparison, in 1998/99 pro rata was 11.2 percent of our budget).
- Travel is budgeted for \$167,011 (2.4 percent), which is nearly equal to last year's actual travel expenses of \$165,294, but nearly \$20,000 less than the board spent for travel in 2001/02. (In fact, travel has been steadily decreasing since 1998/99, when it was \$228,235.)

The committee reviewed a list of the expenses of board members as of October 1. This information will be updated as of January 1, 2004, and provided in the committee's report to the board at the January meeting.

Update: Board Fund Condition

Last year the board loaned \$6 million from its fund (the board's "savings account") to the state's General Fund. Repayment of this loan is required if the board will enter a deficit situation.

This year, the board is expected to spend at least \$1.5 million more than it projects it will collect in revenue. As such, the amount of money in reserve in the board's fund is important.

Current projections are that we will not have a deficit in our fund until early in 2005/06.

Budget Change Augmentations for 2003/04 and 2004/05

The board must prepare a "budget change proposal" to increase its budget for resources and staff. The board is not seeking any augmentations for 2003/04 or 2004/05 due to the state's budget crisis. However, staff will continue to closely monitor areas of where we have traditionally overspent our budget (e.g., AG services, postage) to assure we do not overspend our budget.

The board will have to continue to provide services with existing staff with existing resources. However, workload priorities will continue to result in changes in how the board performs duties. For example, the board has changed its telephone system to provide callers with more automated answers to their questions, and restrict the immediate access of callers to the board's receptionists. Additionally, all staff are being assigned to answer the phones for four hours at least once per month as a means to respond to the calls we do receive in light of staffing reductions.

Personnel Update Report

This fiscal year, the board had to take a 12 percent reduction in its personnel services budget. The majority of this cut came via the mandatory elimination of all positions vacant on June 30, 2003. In the case of the board, this was six positions.

As such, the board has no staff vacancies. The board does have two public board member positions vacant; these positions were created January 1, 2004, and are Governor appointments.

The board has three staff on parental leave (Inspectors Rosie Yongvanich and Cindy Drogichen-Rich and Manager Anne Sodergren).

Also effective January 1, 2004, the assistant executive officer's salary was reduced approximately 15 percent to a pre-2002 level (below that of inspectors and supervising inspectors) following a reclassification of her position that was denied by the State Personnel Board late last year.

Technical Amendment Proposals for the Board's Omnibus Bill

Ms. Herold noted that staff has identified two technical changes for pharmacy law that need board consideration for inclusion in the omnibus bill.

1. Amend section 4409 to allow donations larger than \$25 to the California Pharmacist Scholarship and Loan Repayment Program.

4409. At the time a pharmacy license is renewed pursuant to subdivision (a) of Section 4410 or a pharmacist license is renewed pursuant to Section 4401, the pharmacy or pharmacist may make a ~~twenty five dollar (\$25)~~ contribution, of at least twenty-five dollars (\$25) to be submitted to the board, for the sole purpose of funding the California Pharmacist Scholarship and Loan Repayment Program established pursuant to Article 5 (commencing with Section 128050) of Chapter 2 of Part 3 of Division 107 of the Health and Safety Code. The contribution submitted pursuant to this section shall be plaid into the State Treasury and credited to the California Pharmacist Scholarship and Loan Repayment Program Fund established pursuant to Section 128051 of the Health and Safety Code.

2. Amend section 4403 of the Business and Professions Code to clarify that the board will not reissue or renew any license without the payment of specified fees or delinquent fees.

4403. The board shall not reissue or renew any license without the payment of the fees required by this chapter and the payment of all fees that are delinquent at the time that the application is made.

Motion: by Stan Goldenberg, seconded by John Tilley: Recommend that the proposed amendments to sections 4409 and 4403 as described be pursued in the annual omnibus legislation. 2-0

Update: Mandatory Ethics Training for Board Members and Designated Staff and Pending Regulation to Require Board Inspectors to File Annual Conflict of Interest Filing with the Fair Political Practices Commission

Ms. Herold stated that all board members and required staff completed the required ethics training before January 1, 2004, as required.

Additionally, the department has received an exemption to continue with its rulemaking designating board inspectors (along with other departmental staff) as required to file annual conflict of interest statements with the Fair Political Practices Commission. This has been a board strategic objective for approximately three years.

Adjournment

There being no additional business, Chairperson Tilley adjourned the meeting at 10:50 a.m.

Board of Pharmacy
Second Quarterly Status Report

Strategic Goals
Organizational Development Committee

Goal 5:	Achieve the board's mission and goals.
Outcome:	An effective organization

Objective 5.1:	Obtain 100 percent approval for identified program needs by June 30, 2005.
Measure:	Percentage approved for identified program needs
Tasks:	<p>1. Review workload and resources to streamline operations, target backlogs and maximize services.</p> <p><i>Oct. 2003: Board implements and identifies a number of legislative and regulatory proposals to streamline applications and application processing, complaint resolution and investigation procedures. These include:</i></p> <ul style="list-style-type: none"> - <i>citations and fines being issued by the executive officer instead of a committee of the board.</i> - <i>New requirements enacted for pharmacy technicians and use of NAPLEX exam</i> - <i>status calls on applications pending less than 8 weeks are not answered</i> - <i>processing of fingerprint clearances and conviction information altered</i> - <i>statutory or regulation changes proposed for applicants for pharmacist, pharmacy technicians, interns, wholesalers and non-resident wholesalers.</i> - <i>All Sacramento staff assigned to cover phones as routine duties</i> - <i>Board's Web site will be revamped to make information more accessible</i> - <i>Enforcement actions against licensees will be integrated into the License Verification function of the Web page to facilitate disclosure of information to the public</i> <p><i>Jan. 2004: Board modifies procedures for processing pharmacy technicians so that all information required to make a licensing decision is submitted at one time (previously the various required components could each be submitted at any time, creating a substantial workload to match information to files.). The goal is to reduce the volume of individual pieces of application information that are submitted at different times</i></p> <ul style="list-style-type: none"> - <i>All staff are assigned to answer phones in four-hour blocks to fill behind the board's part-time receptionists and still provide phone coverage for the public. The telephone tree is redesigned to place calls immediately on hold, without the direct intervention of a board operator.</i> - <i>Address of record information was placed on line in mid-December. This eliminates the need for staff to provide this publicly releasable information.</i>

	<p><i>-Enforcement information will be soon added to the Web site so complete license verification information will be available on the Web site.</i></p> <p><i>-Board procedures for issuing citations and fines and changed to make it easier to respond to public inquiries.</i></p> <p><i>- Data systems for monitoring enforcement cases assigned to board staff are integrated so that only one report is prepared monthly instead of two.</i></p> <p>2. Develop budget change proposals to secure funding for needed resources. <i>August 2003: Budget instructions from Department of Finance specify that no program augmentations will be made this year; any increase in resources must come via redirection from within an agency's budget. As such the board dissolves plans for BCPs to augment AG resources and fund a job analysis.</i></p> <p>3. Perform strategic management of the board through all committees and board activities. <i>October 2003: Strategic plan updates from all committees provided to board for review during board meeting.</i> <i>January 2004: Strategic plan updates from all committees provide to board for review during board meeting. Additionally committee readies plan for 2004 update of board strategic plan, planned for the April 2004 meeting.</i></p> <p>4. Manage the board's financial resources to ensure fiscal viability and program integrity. <i>October 2003: Full budget report provided to board on fund condition, revenue, expenditures, and mandatory budget reductions.</i> <i>January 2004: Budget report provided to board on fund condition, revenue, expenditures and mandatory budget reductions.</i></p>
Objective 5.2:	Maintain 100 percent staffing of all board positions.
Measure:	Percentage staffing of board positions
Tasks:	<p>1. Continue active recruitment of pharmacists for inspector positions. <i>July 2003: Three vacant inspector positions lost due to executive order mandating elimination of any position vacant on June 30, 2003</i> <i>September 2003: Department of Consumer Affairs notifies board that it is discontinuing the continuous application process for board inspector positions. The board has no vacant inspector positions and DCA can no longer dedicate staff to this function without a corresponding need by the board to have the civil service exam given.</i> <i>January 2004: Two inspectors on parental leave; however the board has no vacancies. Board has requested the department to give an annual inspector exam so that the civil service list for this classification remains active.</i></p> <p>2. Vigorously recruit for any vacant positions. <i>July 2003: Six vacant positions lost due to executive order mandating elimination of any position vacant on June 30, 2003 – three inspector positions, one receptionist, one office technician for site licensing, one associate analyst for site licensing. As a result, the board has no vacant positions.</i> <i>January 2004: The board has no vacant positions.</i></p>

	<p>3. Perform annual performance and training assessments of all staff. <i>December 2003: All inspectors have annual performance assessments done by their supervisors. State budget restrictions on training may impede the ability of the board to provide all training needed or desired by inspectors.</i></p>
<p>Objective 5.3:</p> <p>Measure:</p>	<p>Implement 10 strategic initiatives to automate board processes by June 30, 2005.</p> <p>Number of strategic initiatives implemented to automate board processes</p>
Tasks:	<p>1. Perform a feasibility study to establish the board's own computer system to track licensees and enforcement activities. <i>July 2003: Department of Finance issues budget instructions stating all computer installation projects and proposals are postponed due to budget crisis.</i></p> <p>2. Continue to work with the Department on the development and implementation of the Professional Licensing and Enforcement Management System (PLEMS). <i>November 2003: Department of Finance denies Department of Consumer Affairs' PLEMS feasibility study report. Department discontinues project. Board suggests reassignment of existing information technology staff to resume programming modifications to existing CAS system which were reassigned to develop PLEMS. This will prevent board from realizing one finding of DCA's Internal Audits Office – to have only one tracking system in place at the board.</i></p> <p>3. CURES <i>November 2003: Board Inspector develops program to integrate CURES data into board's pharmacy inspection tracking program, so that summary CURES data is immediately retrievable when looking at a pharmacy's record.</i></p> <p>4. Miscellaneous Projects <i>January 2004: Board purchases new printers for board office to provide more efficient use of board's new file server.</i></p>

Objective 5.4:	Provide for communication venues to communicate within the board by June 30, 2005.
Measure:	Number of communication venues to communicate within the board
Tasks:	<ol style="list-style-type: none"> Continue the Communication Team to improve communication among staff and host quarterly staff meetings. <i>July 2003: quarterly staff meeting made discretionary for board inspectors due to lack of a state budget. TCT hosts annual picnic for all Sacramento staff and a number of inspectors who travel to Sacramento.</i> <i>Sept. 2003: TCT conducts mail-ballot election to replace vacancy of one analyst on the TCT</i> <i>October 2003: to reduce travel expenses, quarterly staff meetings are converted to biannual meetings (July and December), as such no TCT quarterly meeting held.</i> <i>December 2003: TCT hosts staff meeting and team building activities for all board staff. Board members provide Christmas lunch to staff.</i> Continue Enforcement Team meetings with board members and enforcement staff. <i>July 2003: Enforcement team meeting held in Sacramento. To reduce travel expenses, quarterly team meetings with all enforcement staff will be converted to biannual meetings. Supervising inspectors will provide inspector meetings to update Los Angeles-based staff.</i> <i>Sept. 2003: Enforcement team meeting held in Sacramento. Los Angeles inspectors not present, but supervisors hold inspector meeting in LA for these staff to reduce travel expenses.</i> <i>Dec. 2004: Enforcement Committee and Enforcement Team meetings held with all board enforcement staff.</i> Convene inspector meetings to develop standardized investigation and inspection processes and earn continuing education. <i>July 2003: inspector meeting held in conjunction with Enforcement Team meeting.</i> <i>Sept. 2003: inspector meeting held in Northern and Southern CA. Topics include development of new procedures, case presentation and review, and workload discussions.</i> <i>Dec. 2003: inspector meeting held with all inspectors. Computer modifications incorporated onto all inspectors' computers.</i>

Objective 5.5:	Annually conduct at least 2 outreach programs where public policy issues on health care are being discussed.
Measure:	Number of outreach programs conducted in one year
Tasks:	<p>1. Attend outreach programs.</p> <p><i>September 2003: President Jones attends NABP's District VII and VIII meeting</i></p> <p><i>October 2003: Board participates in CSHP's Annual Seminar in Sacramento</i></p> <p><i>November 2003: Board participates in development of Emergency Contraception Protocol for pharmacists, as required by SB 490 (Alpert, Chapter 651, Statutes of 2003)</i></p> <p><i>December 2003: Staff attend USC Seminar in Balancing the Rx Cost/Benefit Equation</i></p>